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AMAZON.COM, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SUSAN NICHOLSON HOFHEINZ, an
Individual,

Plaintiff,

v.

HARLENE STEIN, an individual and
doing business as "PERMA
PRODUCTIONS"; AMAZON.COM,
INC., a Washington Limited Liability
Company; and DOES 1-10,

Defendants.

Case No. CV12-09312 JAK (JEMx)

**AMAZON.COM, INC.'S ANSWER
TO COMPLAINT;**

REQUEST FOR JURY TRIAL

Judge: John A. Kronstadt
Magistrate: John E. McDermott

Defendant Amazon.com Inc. answers the Complaint by Plaintiff Susan
Nicholson Hofheinz as follows:

1. Paragraph 1 states conclusions of law for which no response is
required.
2. Answering paragraph 2, Amazon.com does not contest jurisdiction.
3. Answering paragraph 3, Amazon.com does not contest venue.
4. Answering paragraphs 4-5, Amazon.com is without sufficient
information or knowledge to form a belief as to the truth or falsity of the allegations
of these paragraphs and therefore denies them.

1 5. Answering paragraph 6, Amazon.com admits that it is a Delaware
2 corporation with its principal place of business in Washington, and that it sells
3 products and services over the Internet via its website www.amazon.com for
4 delivery to residents of California. Amazon.com otherwise denies the allegations in
5 paragraph 6.

6 6. Answering paragraphs 7-8, Amazon.com is without sufficient
7 information or knowledge to form a belief as to the truth or falsity of the allegations
8 of these paragraphs and therefore denies them.

9 7. Answering paragraph 9 for itself only, Amazon.com denies these
10 allegations.

11 8. Answering paragraphs 10-11, Amazon.com is without sufficient
12 information or knowledge to form a belief as to the truth or falsity of the allegations
13 of these paragraphs and therefore denies them.

14 9. Answering paragraphs 12-13 for itself only, Amazon.com denies these
15 allegations.

16 10. Answering paragraphs 14-17, Amazon.com is without sufficient
17 information or knowledge to form a belief as to the truth or falsity of the allegations
18 of these paragraphs and therefore denies them.

19 11. Answering paragraphs 18-21 for itself only, Amazon.com denies these
20 allegations.

21 12. No response to paragraph 22 is required.

22 13. Answering paragraphs 23-30 for itself only, Amazon.com denies these
23 allegations.

24 14. No response to paragraph 31 is required.

25 15. Answering paragraphs 32-36 for itself only, Amazon.com denies these
26 allegations.

27 16. No response to paragraph 37 is required.

28 17. Answering paragraphs 38-43 for itself only, Amazon.com denies these

1 allegations.

2 18.No response to paragraph 44 is required.

3 19.Answering paragraphs 45-47 for itself only, Amazon.com denies these
4 allegations.

5 20.No response to paragraph 48 is required.

6 21.Answering paragraphs 50-51 for itself only, Amazon.com denies these
7 allegations.

8 22.No response to paragraph 52 is required.

9 23.Answering paragraphs 53-54 for itself only, Amazon.com denies these
10 allegations.

11
12 **PRAYER FOR RELIEF**

13 Answering for Amazon.com only, Amazon.com denies that Plaintiff is
14 entitled to any of the items set forth in its prayer for relief.

15
16 **AFFIRMATIVE DEFENSES**

17 As a further answer to Plaintiff's complaint, Amazon.com asserts the
18 following affirmative defenses:

19 **FIRST AFFIRMATIVE DEFENSE**

20 (Failure to State a Cause of Action)

21 Plaintiff's complaint, and each and every cause of action, fails to state facts
22 as to Amazon.com sufficient to constitute a cause of action against it.

23
24 **SECOND AFFIRMATIVE DEFENSE**

25 (Insufficient originality)

26 Plaintiff's materials are not sufficiently original to be entitled to protection
27 under the Copyright Act, and even if they are, the scope of protection is so narrow
28 as to preclude any finding of infringement in this case.

THIRD AFFIRMATIVE DEFENSE

(No secondary meaning)

Plaintiff's materials are not sufficiently distinctive to have acquired secondary meaning in the minds of a significant part of the consuming public.

FOURTH AFFIRMATIVE DEFENSE

(Digital Millennium Copyright Act)

Amazon.com is shielded from copyright liability for the actions of third parties by the Digital Millennium Copyright Act.

FIFTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

Plaintiff's claims for damages are barred by its failure to mitigate.

SIXTH AFFIRMATIVE DEFENSE

(Laches)

Plaintiff's claims are barred by the doctrine of laches.

SEVENTH AFFIRMATIVE DEFENSE

(Unclean Hands)

Plaintiff's claims are barred by the doctrine of unclean hands.

RESERVED AFFIRMATIVE DEFENSES

The complaint does not describe the alleged actions of Amazon.com with sufficient particularity to permit it to ascertain what other defenses may exist. Amazon.com is frequently mentioned as part of "Defendants," but no particularized allegations are made against it. Amazon.com therefore reserves the right to assert all defenses that may pertain to the complaint as the facts of the case are

1 discovered.

2
3 **PRAYER FOR RELIEF:**

4 Amazon.com requests entry of judgment in its favor and prays that the Court:

5 1. dismiss Plaintiff's complaint with prejudice;

6 2. award Amazon.com its costs;

7 3. award Amazon.com its reasonable attorney fees and expenses, as
8 permitted by law, and;

9 4. grant Amazon.com other and further relief as the Court may deem just and
10 proper.

11
12 Dated: January 10, 2013

ROPERS, MAJESKI, KOHN &
BENTLEY

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14
15 By /s/ Timothy L. Skelton

ALLAN E. ANDERSON
TIMOTHY L. SKELTON
KOLLIN J. ZIMMERMANN
Attorneys for Defendant
AMAZON.COM, INC.

DEMAND FOR JURY TRIAL

Amazon.com Inc. hereby requests a jury trial on all issues triable to a jury.

Dated: January 10, 2013

ROPERS, MAJESKI, KOHN &
BENTLEY

By: /s/ Timothy L. Skelton

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